

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-22 remain pending.

The specification is objected to for minor informalities. In response, the above editorial amendments are being made to the specification. Applicant is also providing a copy of the book "Options" as requested by the Examiner. Concerning the Examiner's comment regarding the use of the term "Excel," Applicant respectfully submits that the generic description "spreadsheet software" precedes the use of the term "Excel" in that sentence in paragraph 0026. Accordingly, Applicants respectfully request that the Examiner withdraw the objections to the specification.

Claims 1-22 stand rejected under 35 U.S.C. § 101 allegedly because the claimed invention is directed to non-statutory subject matter. Although Applicant respectfully disagrees, to advance prosecution, the independent claims are being amended to recite that the methods recited in claims 1-17 perform the steps of "operating a computer..." and the language of independent claim 18 has been amended to recite "[a] computer-readable medium of instructions for controlling a computer to perform the steps of." Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Claims 1-22 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement and the enablement requirement. Claims 1-22 further stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. In these rejections, the Examiner contends that the specification fails to describe how the claimed "rating" is assigned.

These rejections are respectfully traversed. For example, Applicant respectfully submits that the description beginning at paragraph 0011 of the specification and shown in the flowchart of Figures 1A and 1B clearly set forth a “method for assigning a rating to a fund.” (Paragraph 0012). The flowchart and its related description in the specification clearly sets forth an example of how the median and annual returns are calculated in accordance with an embodiment of the present invention. Paragraph 0024 explicitly states that “[a] fund rating may be assigned based on the median expected annual return and the range from high to low of expected annual returns” and that the “rating may be a numerical value, such as from 1 to 6.” Accordingly, Applicant respectfully submits that one skilled in the art, in viewing the specification, would clearly understand how the rating is to be assigned. Hence, Applicant respectfully requests that this rejection be withdrawn.

Claims 1-22 stand rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over admitted prior art in view of the Official Notice. This rejection is respectfully traversed.

Concerning the Examiner’s statement that “Applicant has merely combined teaching of the prior art to arrive at the instant invention which appears to be nothing more than a simple upgrade of the ‘rating...commonly used by investors,’” Applicant respectfully submits that on the contrary, the claimed approach is far more than an upgrade of the ratings commonly used by investors, but rather, is a significant change in approach that provides investors with the information needed. In particular, the embodiments of the present invention use information from the futures markets and apply that information to provide ratings and a likely range of returns for the specific funds. Applicants respectfully submit that the “admitted prior art” fails to teach or suggest using futures for assigning ratings to bonds or mutual funds. Concerning the

Examiner's reliance on "Official Notice," in accordance with M.P.E.P. § 2144.03(C), Applicant respectfully requires the Examiner to support the finding with adequate evidence. Applicant respectfully notes that the filing date of the present application is November 8, 2001, and the information cited on pages 14 and 15 of the Office Action are dated later than this filing date, and thus cannot be relied upon as evidence of the prior art or state of the art at the time the application was filed. The information cited on pages 17 and 18 of the Office Action appears to be undated and thus also cannot be relied upon as prior art or state of the art at the time the application was filed.

For at least these reasons, Applicant respectfully requests that the Examiner withdraw this rejection.

Requirement for Information Under 37 C.F.R. § 1.105

In view of the Examiner's request, Applicant hereby responds as follows:

B

- a. An Information Disclosure Statement is being filed herewith.
- b. The "Options" book is being provided with the Information Disclosure Statement.
- c. The Examiner is referred to the "Options" book provided herewith.
- d. The Examiner is referred to the "Options" book provided herewith.

- e. None. No such information is readily available.
- f. The Examiner is referred to the "Options" book provided herewith.

Concerning the Examiner's statement in Section E on pages 23-24 of the Office Action, Applicants respectfully refer the Examiner to the "Options" book. The operation of the software is described in Section 6 beginning on page 192 of the "Option" book.

Concerning the Examiner's statement in Section F on page 24 of the Office Action, Applicants respectfully refer the Examiner to the "Options" book.

In view of the above, it is believed that Applicant has been fully responsive to each of the Examiner's requests.

CONCLUSION

In view of the foregoing discussion, Applicants respectfully request the entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

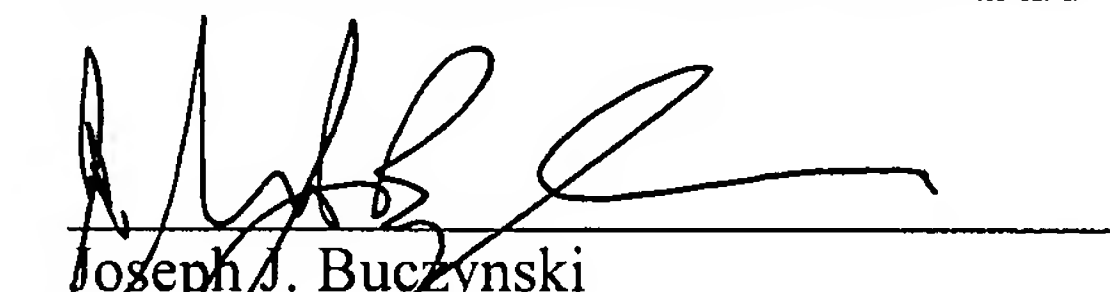
This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

Dated: December 9, 2008

By:


Joseph J. Buczynski
Reg. No. 35,084

Customer No. 055694
Drinker Biddle & Reath LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209
Tel.: (202) 842-8806
Fax: (202) 842-8465